



**Ad Standards** Community Panel  
PO Box 5110, Braddon ACT 2612  
P (02) 6173 1500 | F (02) 6262 9833

**AdStandards.com.au**

Ad Standards Limited  
ACN 084 452 666

## Case Report

|                                         |                                         |
|-----------------------------------------|-----------------------------------------|
| <b>1. Case Number :</b>                 | <b>0324-19</b>                          |
| <b>2. Advertiser :</b>                  | <b>eBay Australia &amp; New Zealand</b> |
| <b>3. Product :</b>                     | <b>Other</b>                            |
| <b>4. Type of Advertisement/Media :</b> | <b>Cinema</b>                           |
| <b>5. Date of Determination</b>         | <b>9-Oct-2019</b>                       |
| <b>6. DETERMINATION :</b>               | <b>Dismissed</b>                        |

### ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification

### DESCRIPTION OF ADVERTISEMENT

A female postie and male postie enter an office block lift. The male postie has a largish box in each arm (one eBay branded, the other plain brown). Two women in business attire are already in the lift. The women are interested in the packages he's holding and he begins to compare the contents of the boxes, reading from their labels. He jokes that 'Roz Cooper' has received the same items as the eBay package but has paid a lot more.

After a moment of silence, one of the women confess that they're Roz. The ad cuts to the end frame where the super reads 'Don't be a Roz. Get it for less on eBay' and showcases the products. Finishes on eBay logo.

### THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

*Ageist, discriminatory, offensive. Promotes wrong stereotypes. Damages society.*

### THE ADVERTISER'S RESPONSE



Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

*This submission is made in response to the complaint made on 15 September 2019 (Complainant) who describes the advertisement as ‘mocking a person’s age – stating they are a zillion years old because they did not use eBay to buy their product is ageist, discriminatory, and offensive...promotes wrong stereotypes. Damages society’.*

*The advertiser respectfully disagrees for the reasons given below with respect to each of the provisions of section 2 of AANA Code of Ethics.*

*In response, the Advertiser acknowledges that the Public Community Standards upon which this advertisement is to be assessed are those existing in August 2019 (PCS).*

#### *Subsection 2.1*

*In the opinion of the Advertiser, it is well known that Australian audiences are typically engaged by humour.*

*The intention of the ad is a comedic reference, challenging the way that the internet is being consumed by audiences today.*

*The intention is not to offend anyone nor draw reference to anyone’s age. The age that is quoted is not a realistic age, and not based on reality.*

*The advertisement is aimed at engaging and educating Australian shoppers aged 18 – 55 about the price point advantage of eBay’s service. It does so through engaging that audience with humour.*

*The humour used in this advertisement aims to be clever by simultaneously, implicitly challenging common stereotypes, assumptions and misconceptions of the way that the internet is being consumed by audiences today. The takeaway message is that:*

- there is a potential benefit in price when shopping online with eBay;*
- it is wrong to suggest any subset of users are better than any other at using the internet to find the best price for a similar product in 2019.*

*As Alison Beard wrote in the Harvard Business Review article titled ‘Leading with Humor’ (May, 2014) ‘we laugh when we find that something we’ve momentarily believed to be the case isn’t in fact true...’*

*The advertisement uses this principle to create humour as an adjunct to the promotion. The promotional element is the ‘hero’ boasting that he can predict that a shopper sourcing goods from eBay will pay less than those shopping through other online retailers (imagine a receipt on the outside). The humour used to engage the audience is the proposition that the hero can deduce the technological expertise of the shopper. The audience momentarily believes him. When the shopper is revealed, the proposition and its premise are proven wrong and the audience laughs. This ultimately leaves the viewer, consciously and/or subconsciously, to consider whether they agree*



*with someone who and/or the proposition which is demonstrated to be wrong on the issue of predicting the attributes of a shopper by the source of their purchase.*

*The dialogue is intentionally over the top and vague such that it does not identify a real person or real group of people. It does not make an unjust or prejudicial distinction in the treatment of different categories of people and it does not speak about any real life person or group of people in an abusively disparaging manner.*

*Prior to airing the advertisement, the advertiser has obtained the views provided by 589 members of the community aged between 18 and 54 and resident across metro and regional areas of each Australian State and Territory in August 2019. While that feedback is confidential on an individual level, the advertiser can reveal that, on an aggregated level, the relevant feedback:*

- did not raise ageism or discrimination against older people or the promotion of wrong stereotypes at all;*
- did not identify the advertisement to be offensive to and group of people including older people;*
- aligned with the advertisers understanding that the use of humour in engaging an audience is effective; and*
- in response to a free form, un-guided, 'give your general view'-type question, 84% of responses expressly identified the advertisement enjoyable (or didn't mind it) with many of the responses identifying the advertisement as funny, humorous and/or clever.*

*While the advertiser accepts that humour is subjective, it believes the feedback above is demonstrative of the public standard and that it aligns with the Advertiser; not with the singular, subjective view of the Complainant. The Advertiser suggests that the Community Panel should agree that the advertisement does not breach the Public Community Standards and otherwise complies with subsection 2.1 of the AANA Code.*

#### *Subsection 2.2*

*This advertisement is directed to the financial advantages to customers of using eBay for purchases made online. The advertisement does not and is not alleged to employ sexual appeal in any form and does not otherwise contravene subsection 2.2.*

#### *Subsection 2.3*

*This advertisement focusses on a group of people travelling in a lift presumably to a place of work which receives courier deliveries. The advertisement does not present or portray nor is it alleged to present or portray violence in any form and does not otherwise contravene subsection 2.3.*

#### *Subsection 2.4*

*This advertisement is directed to the financial advantages to customers of using eBay for purchases made online. The advertisement is not alleged to and does not communicate sex, sexuality or nudity in any form and does not otherwise contravene subsection 2.4.*



#### *Subsection 2.5*

*The advertisement complies with subsection 2.5 as it does not use any vulgar language and it uses common Australian vernacular appropriate to the circumstances. It is not alleged to and does not otherwise infringe this section.*

#### *Subsection 2.6*

*This advertisement is directed to the financial advantages to customers of using eBay for purchases made online. It does not engage any issues of health and safety. It is not alleged to and does not otherwise contravene subsection 2.6.*

#### *Subsection 2.7*

*It is not alleged that the advertisement is not clearly distinguishable as such to the relevant audience. The focus, length and selection of air time of the advertisement (before feature films at cinemas or between programmed viewing on television) make clear that this is an advertisement for the Advertiser. Accordingly, it complies with subsection 2.7.*

*The Advertiser trusts that having received this response, the Community Panel will see this matter as at an end.*

### **THE DETERMINATION**

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that the advertisement suggests that older people are incapable of using the internet to buy online, and that if they do they do so incorrectly by not using eBay.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

The Panel noted the Practice Note to Section 2.1 provides the following definitions:

*"Discrimination – unfair or less favourable treatment.*

*Vilification – humiliates, intimidates, incites hatred, contempt or ridicule."*

The Panel considered that the advertisement is making a reference to a stereotype that some groups aren't familiar with technology and cannot make good use of on-line shopping. However the Panel considered the advertiser's response that the age



referenced in the advertisement is not a real age. The Panel considered that the age described is a clear exaggeration and is not intended to be taken literally.

The Panel noted that the punchline of the advertisement is that the person who purchased the items is young, and that therefore the overall impression is not a negative depiction of older people. The Panel considered that most members of the community would not consider this representation to be discriminatory towards older people.

The Panel considered that the advertisement content did not humiliate, intimidate, incite hatred, contempt or ridicule of elderly people.

The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of age and determined that the advertisement did not breach Section 2.1 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaints.